PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:	)	
	)	
Pilu, et al.	)	Confirmation No. 5917
	)	
Serial No.: 10/696,567	)	Examiner: Hernandez, Nelson D.
	)	Group Art Unit: 2622
Filed: October 30, 2003	)	
	)	
For: **Camera Apparatus with Saliency Signal Generation**	)	HP Docket No.: 300200058-2
	)	TKHR Docket No.: 050851-1030
	)	

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed herewith, responding to the final Office Action mailed June 5, 2009.

I. REAL PARTY IN INTEREST

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF THE CLAIMS

Claims 1-5, 7, 10-25, 28-38, 40, 42, 44-47, 51-54 and 56 are pending in this application. Claims 6, 8-9, 26-27, 39, 41, 43, 48-50, 55 and 57-60 were cancelled during prosecution. Claims 1-5, 7, 10-25, 28-38, 40, 42, 44-47, 51-54 and 56 were rejected by the final Office Action, and are the subject of this appeal.

IV. STATUS OF AMENDMENTS

There have been no claim amendments made after the final Office Action, and all amendments made before the final Office Action have been entered. The claim listing in section VIII (CLAIMS – APPENDIX) represents the present state of the claims.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Embodiments of the claimed subject matter are summarized below with reference numbers and references to the written description ("specification") and drawings. The subject matter described below appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure.

Embodiments according to independent claim 1 involve a camera apparatus comprising an electronic camera (1 in FIG. 1) producing an image signal (18 in FIG. 3), a user operable picture taking control (p. 6 lines 23-30); for selectively activating the electronic camera to take pictures (p. 13 lines 7-9; p. 14 lines 14-17; 14 in FIG. 1), and an additional physically or mechanically operable user control (p. 6 lines 1-3; p. 14 lines 1-10 and 14-26; p. 14 line 27 to p. 15 line 13; 5 in FIG. 1; 9 in FIG. 2) for receiving an input from a user and for generating, in response to the input from the user, a saliency signal that (a) can change in value between at least three different discrete values while the image signal is being produced (p. 6 lines 1-10; p. 8 lines 7-19); or (b) can have values that are continuously variable while the image signal is being produced (p. 6 lines 1-10; p. 8 lines 7-19), a circuit for providing a maximum value for the saliency signal contemporaneously with activation of the picture taking control (p. 14 lines

15-20; p. 15 lines 1-13; 21 in FIG. 3), and a memory (19 in FIG. 3) arranged for storing the image signal and the saliency signal (p. 8 lines 29-30; p. 9 line 2-27; p.14 lines 12-17), operating of at least a part of the camera apparatus while the electronic camera is activated to take pictures being arranged to be controlled in response to the saliency signal (p. 9 line 24 to p. 10 line 17; p. 10 line 30 to p. 11), the operation in response to the saliency signal being in addition to recording the saliency signal in the memory (p. 9 line 24 to p. 10 line 17; p. 10 line 30 to p. 11).

Embodiments according to independent claim 21 involve a camera apparatus comprising an electronic camera (1 in FIG. 1) for producing an image signal (18 in FIG. 3), a physically or mechanically operable user control (p. 6 lines 1-10; p. 7 lines 1-20; p. 8 lines 20-28) for receiving an input from a user and for generating, in response to the input from the user, a saliency signal (p. 6 lines 1-5; p. 8 lines 20-28) that (a) can change in value between at least three different discrete values while the image signal is being produced (p. 6 lines 1-10; p. 8 lines 7-19), or (b) can have values that are continuously variable while the image signal is being produced (p. 6 lines 1-10; p. 8 lines 7-19), a circuit for providing a maximum value for the saliency signal contemporaneously with activation of the picture taking control (p. 14 lines 15-20; p. 15 lines 1-13; 21 in FIG. 3), and a memory (19 in FIG. 3) arranged for storing the image signal and the saliency signal (p. 8 lines 29-30; p. 9 line 2-27; p.14 lines 12-17), operation of at least a part of the camera apparatus while the electronic camera is activated to take pictures being arranged to be controlled in response to the saliency signal (p. 9 line 24 to p. 10 line 17; p. 10 line 30 to p. 11), the operation in response to the saliency signal being in addition to recording the saliency signal in the memory (p. 9 line 24 to p. 10 line 17; p. 10 line 30 to p. 11).

Embodiments according to independent claim 40 involve an imaging system comprising an electronic camera (1 in FIG. 1) producing an image signal (18 in FIG. 3), at least two physically

or mechanically operable user controls (p. 6 lines 1-10; p. 7 lines 1-20; p. 8 lines 20-28), each of the user controls being arranged for receiving an input from a user and for generating first and second saliency signals while the image signal is being produced (p. 8 line 20-33), and saliency circuitry for combining said first and second saliency signals to form a complex saliency signal (p. 8 line 29 to p. 9 line 10), one of the saliency signals being a signal that (a) can change in value between at least three different discrete values while the image signal is being produced (p. 6 lines 1-10; p. 8 lines 7-19), or (b) can have values that are continuously variable while the image signal is being produced (p. 6 lines 1-10; p. 8 lines 7-19), a memory (19 in FIG. 3) arranged for storing the image signal and the saliency signal in response to the saliency signal (p. 8 lines 29-30; p. 9 line 2-27; p.14 lines 12-17), operation of at least part of the electronic camera being arranged to be controlled in response to the complex saliency signal (p. 8 line 29 to p. 9 line 10; p. 9 line 24 to p. 10 line 17; p. 10 line 30 to p. 11 line 10).

Embodiments according to independent claim 44 involve an imaging system comprising an electronic camera (1 in FIG. 1) producing an image signal (18 in FIG. 3), a physically or mechanically operable user control (p. 6 lines 1-10; p. 7 lines 1-20; p. 8 lines 20-28) for receiving an input from a user and for generating a first saliency signal while the image signal is being produced (p. 8 line 20-33; p. 14 lines 14-31), saliency circuitry for automatically generating an image related second saliency signal in response to the image signal (p. 8 lines 20-28; p. 14 lines 14-31), and circuitry for combining said saliency signals to provide a complex saliency signal (p. 8 line 29 to p. 9 line 10).

Embodiments according to independent claim 51 involve an apparatus comprising an electronic camera having a picture taking control for selectively activating the camera to derive input picture signals, the electronic camera further including a user operable control (p. 6 lines 1-10; p. 7 lines 1-20; p. 8 lines 20-28) for generating a saliency signal (p. 6 lines 1-5; p. 8 lines 20-28) capable of having plural values (p. 6 lines 1-10; p. 8 lines 7-19) and a buffer (19 in

FIG. 3) for receiving the input picture signals (p. 8 lines 29-30; p. 9 line 2-27; p.14 lines 12-17) and having a capacity for the input picture signals determined in response to the value of the saliency signal (p. 16 lines 3-7 and p. 16 line15 to p. 17 line 9).

Embodiments according to independent claim 54 involve an apparatus comprising an electronic camera having a picture taking control for selectively activating the electronic camera to store an image to a memory (p. 8 lines 29-30; p. 9 line 2-27; p.14 lines 12-17; 19 in FIG. 3) , the electronic camera further including a user operable control (p. 6 lines 1-10; p. 7 lines 1-20; p. 8 lines 20-28) for generating a non-playback saliency signal (p. 9 line 24 to p. 10 line 17; p. 10 line 30 to p. 11), and picture selection circuitry for selectively passing the image to the memory in response to the saliency signal (p. 8 line 29 to p. 9 line 10; p. 9 line 24 to p. 10 line 17; p. 10 line 30 to p. 11 line 10; p. 12 lines 3-7), the saliency signal being capable of having more than two values (p. 6 lines 1-10; p. 8 lines 7-19).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are to be reviewed on appeal.

A. Claims 44-47 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by *Takahashi* (US. 2002/0041757).

B. Claims 1, 3-5, 10-21, 23-25, 28-38, 40, 42, 54 and 56 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Metcalfe* (AU 743216B) in view of *Takahashi*.

C. Claims 2, 7, and 22 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Metcalfe* in view of *Takahashi* and further in view of *Matsumoto* (U.S. 6,795,642).

D. Claims 51-53 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Takahashi*.

VII. ARGUMENT

A. Rejection of Claims 44-47 under 35 U.S.C. §102(b): *Takahashi*

Appellant submits that the rejection of claims 44-47 should be overturned because *Takahashi* does not disclose, teach, or suggest every element of these claims. A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 2w20 U.S.P.Q. 303, 313 (Fed. Cir. 1983).

1. Independent Claim 44

a. *Takahashi* fails to teach, disclose or suggest at least "saliency circuitry for automatically generating an image related second saliency signal in response to the image signal"

The Office Action appears to rely on either of two teachings in *Takahashi* for disclosing the claimed "saliency circuitry for automatically generating...second saliency signal". Appellant will address each of these teachings in turn.

The Office Acton first contends, in the main body of the rejection, that the feature is disclosed as follows:

> saliency circuitry for automatically generating an image related second saliency signal in response to the image signal (Takahashi further teaches that the auxiliary information includes a degree of importance of said persons appearing in the image data, and that said degree of importance can be determined based on the time length of a scene where a particular person set by the user appear; see page 8 ¶ 0119.) (Office Action, pp. 8-9, emphasis added.)

Thus, this portion of the Office Action appears to contend that *Takahashi* teaches automatically generating a degree-of-importance value for a particular person based on the time that person appears in the scene. Appellant disagrees, and submits that the Examiner's reading of *Takahashi* goes beyond the explicit and even implicit teachings of the reference.

Takahashi describes a system in which the user inputs a description of auxiliary information before video is captured (step 23 in Fig.2), and then the predefined auxiliary information is

recorded when the user pushes a button during video capture. (See, *e.g.*, para. 0017.) More specifically, the user creates tags or button labels in advance (*e.g.*, "son", "daughter", "exciting" *etc.*) in advance (see, *e.g.*, para. 0119), and then when a scene featuring the person-of-interest is being captured, the user presses a button corresponding to the appropriate tag, causing auxiliary information associated with the tag (*e.g.*, "Son") to be recorded (see, *e.g.*, para. 0017). A value describing the degree of importance is associated with each person-of-interest tag. *Takahashi* makes a brief statement that "the degree of importance, is shown according to the time length of a scene where the son and the daughter appear" (para. 0019). However, Appellant submits that while *Takahashi* clearly states that the degree-of-importance/scene length is shown, the reference does not actually state that this length of time is automatically generated, and furthermore, does not describe how this degree-of-importance/scene length would be automatically determined.

Appellant submits that *Takahashi* merely teaches that the user can go back and enter the degree-of-importance/scene length for a particular tag, after the video has been captured. (See, *e.g.*, para. 00120. "As described above, since auxiliary information is generated in connection with the shooting operation, the user can easily generate auxiliary information at shooting. Further, ***PointOfView may be inputted after shooting***.") Thus, while *Takahashi* teaches generating some auxiliary information during video capture – specifically, the ViewPoint tag within the PointofView descriptor as shown in FIG. 3 – other auxiliary information – specifically, the Value for the PointOfView descriptor in FIG. 3, which describes degree-of-importance – is entered by the user after video capture. Thus, since *Takahashi* does not teach ***automatically determining*** scene-length for-a-person-of-interest, the Examiner's reliance on this feature in *Takahashi* as teaching the claimed "saliency circuitry for automatically generating...second saliency signal" is misplaced.

The Office Action also contends that in the alternative, a different teaching in *Takahashi* discloses the claimed "saliency circuitry for automatically generating...second saliency signal", as follows:

> The Examiner disagrees with the Applicant. However, that Examiner would like to point out that Takahashi teaches that the saliency signal can be either input by the user as well as ***automatically generated*** by the camera upon detection of excitement of the user using either a pressure sensor or a sweat sensor provided in the camera so that the camera would automaticallv assign a "degree of importance" based on the detected excitement of the user as also discussed in 11 01 19 (Office Action, p. 4, emphasis added.)

Thus, this portion of the Office Action specifically contends that *Takahashi*'s "exciting" value corresponds to the automatically generated "second saliency signal" recited in claim 44. Appellant disagrees, and submits that the Examiner's reading of *Takahashi* goes beyond the explicit and even implicit teachings of the reference.

As noted above, para. 0019 of *Takahashi* teaches tags such as "son", "daughter" and "exciting", and degree-of-importance for each tag. With regard to the "exciting" tag relied upon in the rejection, *Takahashi* further discloses that in one embodiment the "exciting" tag can have a binary degree-of-importance. *Takahashi* then contrasts this binary-valued embodiment with various other embodiments which allow for additional levels of "exciting", such as one in which the user selects levels of "exciting" in 0.1 increments by pressing a series of buttons, and another in which a user directly inputs a level for "exciting" via an "exciting button". Finally, *Takahashi* another embodiment in which "***a value*** of exciting may be inputted by sensing the degree of exciting of the user from the fingers of the user which are put on a pressure sensor or a sweat sensor provided at the upper surface of the body". Thus, Appellant submits that *Takahashi* does not teach that the pressure sensor or sweat sensor generates a saliency signal, but instead that the sensor generates a degree-of-importance value for the "exciting" tag.

b. *Takahashi* fails to teach, disclose or suggest at least "circuitry for combining said saliency signals to provide a complex saliency signal"

The Office Action contends that *Takahashi* teaches this as follows:

> Takahashi discloses that the saliency signals (wherein the Examiner is interpreting the person information and the degree of importance as saliency signals) are displayed together (See figs. 20(a) and 26(b)). Therefore, by at least teaching that ***the person information and the degree of importance are displayed together in the display of the camera***, Takahashi teaches combining the signals to create a complex signal that is used for creating a display signal to inform the user about the person information and the degree of importance in the video being displayed. Therefore, the Examiner understands that Takahashi discloses "circuitry for combining said saliency signals to provide a complex saliency signal" as claimed.
> (Office Action, p. 5, emphasis added.)

Appellant respectfully disagrees with the contention. Appellant assumes (for the sake of argument) that the person-of-interest information and the degree-of-importance information are each a "saliency signal". Even so, *Takahashi* does not teach or suggest "combining" these two pieces of information. *Takahashi* merely teaches simultaneous display of these two separate pieces of information (see, *e.g.*, Figs. 26(a) and (b)), which Appellant respectfully submits is not the same as "combining" as recited in claim 44. Furthermore, even assuming (for the sake of argument) that simultaneous display of these separate two pieces of information is the same as combining them, Appellant respectfully that the displayed information is not "complex" as recited in claim 44.

c. Conclusion

For at least the reason that *Takahashi* fails to disclose, teach or suggest the above-described features, Appellant respectfully submits that *Takahashi* does not anticipate claim 44. Therefore, Appellant requests that the rejection of claim 44 be withdrawn.

2. Dependent Claims 45-47

Since independent claim 44 is allowable, Appellant respectfully submits that claims 45-47 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Appellant respectfully requests that the rejection of claims 45-47 be withdrawn.

B. Rejection of Claims 1, 3-5, 10-21, 23-25, 28-38, 40, 42, 54 and 56 under 35 U.S.C. § 103(a): *Metcalfe* and *Takahashi*

1. Independent Claims 1 and 21

Claims 1 and 21 recite "a circuit for providing a maximum value for the saliency signal contemporaneously with activation of the picture taking control". Appellant respectfully submits that the proposed combination fails to teach, disclose, or suggest at least this feature. The Office Action relies on *Metcalfe* for teaching this feature, as follows:

> The Examiner noted that Metcalfe further discloses that the record button 11 2 and the button 111 can be combined into a single combination key, and depressing the combination key starts the recording of video while subsequent pressure applied by the user generates a LOI signal for recording with the captured video frames (See page 6, lines 6-1 2)....by teaching that the combination button is initially depress for activation while a subsequent pressure applied by the user that in response the camera would assign a particular LOI to the video frames being recorded, Metcalfe discloses "a circuit for providing a maximum value for the saliency signal contemporaneously with activation of the picture taking button" as claimed since even if the LOI is not assign at the same time, the LO1 is assign at a time that can be considered to be occurring during a particular period of time. Therefore, the Examiner understands that the combined teaching of Metcalfe in view of Takahashi as discussed and analyzed in claims 1 and 21 teaches all the limitations as presented. (Office Action, pp. 20-21.)

Appellant disagrees with this contention. Appellant assumes (for the sake of argument) that the level of interest (LOI) signal in *Metcalfe* corresponds to a saliency signal, but the value provided is then a current value of the LOI, not "a maximum value" as recited in claims 1 and 21.

Nor does *Takahashi* disclose this feature. Even assuming (for the sake of argument) that the auxiliary information in *Takahashi* corresponds to a saliency signal, *Takahashi* does not disclose "providing a maximum value" for the auxiliary information.

Accordingly, Appellant submits that the relied-upon references do not (individually or in combination) disclose, teach, or suggest the claimed feature described above. Therefore, a *prima facie* case of obviousness for claims 1 and 21 has not been made, and the rejection should be withdrawn.

2. Independent Claim 40

Appellant respectfully submits that claim 40 is allowable for at least the reason that the proposed combination of *Metcalfe* in view of *Takahashi* does not disclose, teach, or suggest at least the feature of "saliency circuitry for combining said first and second saliency signals to form a complex saliency signal". The Office Action acknowledges (p. 35) that *Metcalfe* does not explicitly disclose this feature, but contends that *Takahashi* teaches the feature as follows:

> saliency circuitry for combining said saliency signals to form a complex saliency signal (the Examiner is reading the complex saliency signal as the combined information having the persons information and the degree of importance information as shown in Takahashi...(As shown in figs. 23, the user would set the auxiliary information and the set auxiliary information would be displayed in the display as shown in figs. 25 and 26 (see persons information and the degree of importance displayed on the display which the examiner is reading as the complex saliency signal generated)
> (Office Action, p. 37, emphasis added.)

Appellant respectfully disagrees with the contention. Appellant assumes (for the sake of argument) that the person-of-interest information and the degree-of-importance information are each a "saliency signal". Even so, *Takahashi* does not teach or suggest "combining" these two pieces of information. *Takahashi* merely teaches simultaneous display of these two separate pieces of information (see, *e.g.*, Figs. 26(a) and (b)), which Appellant respectfully submits is not the same as "combining" as recited in claim 40. Furthermore, even assuming (for the sake of argument) that simultaneous display of these separate two pieces of information is the same as combining them, Appellant respectfully that the displayed information is not "complex" as recited in claim 40.

Accordingly, Appellant submits that the relied-upon references do not (individually or in combination) disclose, teach, or suggest the claimed feature described above. Therefore, a *prima facie* case of obviousness for claim 40 has not been made, and the rejection should be withdrawn.

3. Independent Claim 54

Appellant respectfully submits that *Metcalfe* in view of *Takahashi* fails to teach, disclose, or suggest "a user operable control for generating a non-playback saliency signal". The Office Action alleges that *Metcalfe* teaches this feature as follows:

> Metcalfe discloses...a user operable control (button 12 as shown in fig.1) for generating a non-playback saliency signal generated in Metcalfe is a level of interest signal to indicate portion of the image signals that have certain degree of interest to be stored in the memory 120 in association with the saliency signal)
> (Office Action, p. 41.)

Appellant respectfully disagrees with the contention. Appellant assumes (for the sake of argument) that the level of interest (LOI) signal is a "saliency signal". However, in further discussing the LOI, the Office Action notes that "when ***reproducing***, the camera would select particular images based on the degree of importance (LOI) as set by the user when recording the images (See pages 5-7; page 6, line 31 – page 7, line 8.)" (Emphasis added.) Since the LOI signal is used during reproduction, Appellant submits that the level of interest signal in *Metcalfe* is a ***playback*** signal. In contrast, claim 54 recites a "***non-playback*** saliency signal".

The Office Action also contends (p. 43) that the auxiliary information in *Takahashi* is a saliency signal. However, para. 0127 of *Takahashi* discloses that the auxiliary information is used during ***playback***, where claim 54 requires a "***non-playback*** saliency signal".

Accordingly, Appellant submits that the relied-upon references do not (individually or in combination) disclose, teach, or suggest the claimed feature described above. Therefore, a *prima facie* case of obviousness for claim 54 has not been made, and the rejection should be withdrawn.

4. Dependent Claims 3-5, 10-20, 23-25, 28-38, 42, and 56

Since independent claims 1, 21, 40, and 54 are allowable, Appellant respectfully submits that claims 3-5, 10-20, 23-25, 28-38, 42, and 56 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed.

Cir. 1988). Therefore, Appellant respectfully requests that the rejection of claims 3-5, 10-20, 23-25, 28-38, 42, and 56 be withdrawn.

C. Rejection of Claims 2, 7, and 22 under 35 U.S.C. § 103(a): *Metcalfe*, *Takahashi*, and *Matsumoto*

Appellant submits that *Matsumoto* does not cure the deficiencies of *Metcalfe* and *Takahashi* as discussed above (section VII.B.1) in connection with independent claims 1 and 21. Therefore, since claims 1 and 22 are allowable, Appellant respectfully submits that claims 2, 7, and 22 is allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Accordingly, Appellant respectfully requests that the rejection of claims 2, 7, and 22 be withdrawn.

D. Rejection of Claims 51-53 under 35 U.S.C. § 103(a): *Takahashi*

1. Independent Claim 51

Appellant respectfully submits that claim 51 is allowable for at least the reason that *Takahashi* does not teach, suggest, or make obvious at least the feature of "a ***buffer*** for receiving the input picture signals and ***having a capacity*** for the input picture signals ***determined in response to the value of the saliency signal***".

The Office Action contends that *Takahashi* teaches this feature as follows:

> As discussed and analyzed in the previous Office Action, in the embodiment of Takahashi used to teach the limitations in question, Takahashi teaches a transmission process in which the amount of data to be transmitted is determined based on the cost of transmission service, thus wherein the allowed length of data (L) is determined and compared to the amount of data to be transmitted, and if the amount of data to be transmitted exceeds the determined amount of data allowed for transmission (See fig. 47) the apparatus would select video section with a priority higher than a threshold value. If after selecting those video with the priority higher than a threshold, the length of data still more than the allowed length, the apparatus would increase the priority threshold, however, if the length is less that the allowed length, the video signals are transmitted (Page 12,1T 01 51 -01 54). It is noted by the Examiner ***by controlling the length of data to be transmitted, an amount of data need to be measured in memory in order to be compared, this teaches the use of a buffer*** of a memory section working as a buffer

> ***that is required to perform said control of data length and comparison of the selected data with said data length,*** which could be a section of the main memory or a separate memory, since that separate memory (buffer) or section in the memory includes a particular amount of data from the selected data to be measured for comparison with the allowed length of data for transmission. Furthermore, by teaching controlling said amount of data (which is determined based on the priority of data in response to the allowed length of data for transmission) to be transmitted based on the allowed length of data for transmission (which is determined on cost of transmission), Takahashi discloses the use of a buffer for receiving the input picture signals and having a capacity for the input picture signals determined in response to the value of the saliency signal since based on the importance of the data, the capacity of a section of the buffer (section of memory or separate memory as discussed above) for transmission is controlled. Therefore, the Examiner understands that the Takahashi reference teaches the limitations as presented.
> (Office Action, p. 12, emphasis added.)

Appellant agrees that *Takahashi* teaches transmitting only selected portions a buffer (based on a priority value) when the total size of the buffer is greater than an allowed length L. Appellant further agrees that controlling the amount of data to be transmitted implies measuring the amount of data in the buffer. Even assuming (for the sake of argument) that the priority value in *Takahashi* is the same as the claimed "value of the saliency signal", *Takahashi* uses the priority value to control the amount of data being transmitted. In contrast, claim 51 recites that the buffer capacity for input picture signals is determined in response to the value of the saliency signal.

To arrive at the "buffer...having a capacity...determined in response to the value of the saliency signal" feature recited in claim 51, the amount-of-data-transmitted-based-on-priority feature of *Takahashi* (discussed above) must be modified to apply instead to the amount of data stored in the input picture buffer. Appellant submits that such a modification would not be obvious to a person of ordinary skill in the art, and that the motivation offered in the Office Action for the modification is deficient. Specifically, the Office Action relies on the following teaching in *Takahashi* (from para. 0154) as a motivation for this modification: "select as many as possible the most important video signals from the video data for transmission". However, Appellant notes that this alleged motivation for **modifying** the amount-of-data-transmitted-

based-on-priority feature is actually described (in para. 0154) as an **existing** advantage of the amount-of-data-transmitted-based-on-priority feature. Appellant respectfully submits that it would not be obvious for one skilled in the art to look to a second reference to solve a problem already solved by a first reference. *See Ex parte Rinkevich* (BPAI No. 2007-1317, May 29, 2007).

2. Dependent Claims 52-53

Since independent claim 51 is allowable, Appellant respectfully submits that claims 52-53 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Appellant respectfully requests that the rejection of claims 52-53 be withdrawn.

CONCLUSION

For at least the reasons discussed above, Appellant respectfully requests that the Examiner's final rejection of claims 1-5, 7, 10-25, 28-38, 40, 42, 44-47, 51-54 and 56 be overturned by the Board.

Respectfully submitted,

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VIII. CLAIMS – APPENDIX

1. Camera apparatus comprising an electronic camera producing an image signal, a user operable picture taking control for selectively activating the electronic camera to take pictures, and an additional physically or mechanically operable user control for receiving an input from a user and for generating, in response to the input from the user, a saliency signal that (a) can change in value between at least three different discrete values while the image signal is being produced; or (b) can have values that are continuously variable while the image signal is being produced, a circuit for providing a maximum value for the saliency signal contemporaneously with activation of the picture taking control, and a memory arranged for storing the image signal and the saliency signal, operating of at least a part of the camera apparatus while the electronic camera is activated to take pictures being arranged to be controlled in response to the saliency signal, the operation in response to the saliency signal being in addition to recording the saliency signal in the memory.

2. Camera apparatus according to claim 1, wherein said part includes compression circuitry for receiving the image signals and for compressing the image signals to an extent determined by the saliency signal.

3. Camera apparatus according to claim 1, wherein said part includes a buffer for receiving said image signal, the buffer having a capacity arranged to be controlled by the value of the saliency signal during operation of the camera apparatus.

4. Camera apparatus according to claim 1, wherein said part includes image selection circuitry for receiving the saliency and image signals and for selectively passing ones of said image signals as determined by said saliency signal.

5. Apparatus according to claim 1, wherein said part comprises the memory, the memory including management circuitry arranged to be response to the saliency signal for selectively retaining in said memory images associated with higher saliency levels in preference to images with lower saliency levels.

7. Camera apparatus according to claim 2, wherein said part comprises the memory including management circuitry arranged to be responsive to the saliency signal for selectively retaining in said memory images associated with higher saliency levels in preference to images with lower saliency levels.

10. Camera apparatus according to claim 1, further including a user operable control for picture taking control of the electronic camera.

11. Camera apparatus according to claim 1, wherein the user control includes a normal picture taking control on the electronic camera.

12. Camera apparatus according to claim 1, further comprising at least one further physically or mechanically operable user control for generating a corresponding related saliency signal.

13. Camera apparatus according to claim 12, further comprising saliency circuitry for combining said saliency signals to form a complex saliency signal, the complex saliency signal being the saliency signal for controlling at least a part of the electronic camera and the saliency signal the memory is arranged to store.

14. Camera apparatus according to claim 1, further comprising saliency circuitry for generating an image related saliency signal in response to the image signal.

15. Camera apparatus according to claim 14, further comprising saliency circuitry for combining said saliency signals to form a complex saliency signal, the complex saliency signal being the saliency signal for controlling at least a part of the electronic camera and the saliency signal the memory is arranged to store.

16. Camera apparatus according to claim 1, further including circuitry for incorporating said saliency signal in each of said image signals.

17. Camera apparatus according to claim 1, wherein the user control is part of the body of the electric camera or is physically attached to the body of the electronic camera.

18. Camera apparatus according to claim 1, wherein the user control is a remote control for communicating with the electronic camera.

19. Camera apparatus according to claim 1, wherein the user control comprises a physically movable control member and a sensor arranged to be responsive to movement of the control member.

20. Camera apparatus according to claim 1, wherein the user control comprises a pressure or force sensing transducer for deriving the saliency signal that can have values that are continuously variable.

21. Camera apparatus comprising an electronic camera for producing an image signal, a physically or mechanically operable user control for receiving an input from a user and for generating, in response to the input from the user, a saliency signal that (a) can change in value between at least three different discrete values while the image signal is being produced, or (b) can have values that are continuously variable while the image signal is being produced, a circuit for providing a maximum value for the saliency signal contemporaneously with

activation of the picture taking control, and a memory arranged for storing the image signal and the saliency signal, operation of at least a part of the camera apparatus while the electronic camera is activated to take pictures being arranged to be controlled in response to the saliency signal, the operation in response to the saliency signal being in addition to recording the saliency signal in the memory.

22. Camera apparatus according to claim 21, wherein said part includes compression circuitry for receiving the said image signals and for compressing the image signals to an extent determined by the saliency signal.

23. Camera apparatus according to claim 21, wherein said part includes image selection circuitry for receiving the saliency and image signals and for selectively passing ones of said image signals as determined by said saliency signal.

24. Camera apparatus according to claim 21, wherein said part includes a buffer for receiving said image signal, the buffer capacity being controlled by the value of the saliency signal during operation of the camera apparatus.

25. Camera apparatus according to claim 21, wherein said part comprises a memory, the memory including management circuitry arranged to be responsive to the saliency signal for selectively retaining images associated with higher saliency levels in said memory in preference to images with lower saliency levels.

28. Camera apparatus according to claim 21, further including a user operable for picture taking control of the electronic camera.

29. Camera apparatus according to claim 21, wherein the user control includes a normal picture taking control on the electronic camera.

30. Camera apparatus according to claim 21, further comprising at least one further physically or mechanically operable user control for generating a corresponding related saliency signal.

31. Camera apparatus according to claim 30, further comprising saliency circuitry for combining said saliency signals to form a complex saliency signal, the complex saliency signal being the saliency signal for controlling at least a part of the electronic camera and the saliency signal the memory is arranged to store.

32. Camera apparatus according to claim 21, further comprising saliency circuitry for generating an image related saliency signal in response to the image signal, the complex saliency signal being the saliency signal for controlling at least a part of the electronic camera and the saliency signal the memory is arranged to store.

33. Camera apparatus according to claim 32, further comprising saliency circuitry for combining said saliency signals to form a complex saliency signal.

34. Camera apparatus according to claim 21, further including circuitry for incorporating said saliency signal in each of said image signals.

35. Camera apparatus according to claim 21, wherein the user control is part of a body of the electronic camera or is physically attached to the electronic camera.

36. Camera apparatus according to claim 21, wherein the user control includes a remote control for communicating with the electronic camera.

37. Camera apparatus according to claim 21, wherein the user control comprises a physically movable control member and a sensor arranged to be responsive to movement of the control member.

38. Camera apparatus according to claim 21, wherein the user control comprises a pressure or force sensing transducer for deriving the saliency signal that can have values that are continuously variable.

40. An imaging system comprising an electronic camera for producing an image signal, at least two physically or mechanically operable user controls, each of the user controls being arranged for receiving an input from a user and for generating first and second saliency signals while the image signal is being produced, and saliency circuitry for combining said first and second saliency signals to form a complex saliency signal, one of the saliency signals being a signal that (a) can change in value between at least three different discrete values while the image signal is being produced, or (b) can have values that are continuously variable while the image signal is being produced, a memory arranged for storing the image signal and the saliency signal in response to the saliency signal, operation of at least part of the electronic camera being arranged to be controlled in response to the complex saliency signal.

42. An imaging system according to claim 40, further comprising a separate user operable picture taking control for selectively activating the electronic camera to take pictures.

44. An imaging system comprising an electronic camera for producing an image signal, a physically or mechanically operable user control for receiving an input from a user and for generating a first saliency signal while the image signal is being produced, saliency circuitry for automatically generating an image related second saliency signal in response to the image signal, and circuitry for combining said saliency signals to provide a complex saliency signal.

45. An imaging system according to claim 44, wherein operation of at least a part of the electronic camera is arranged to be controlled in response to the complex saliency signal.

46. An imaging system according to claim 44, further comprising a separate user operable picture taking control for enabling the electronic camera to take pictures.

47. An imaging system according to claim 44, wherein the first of said saliency signals can have more than two values.

51. An apparatus comprising an electronic camera having a picture taking control for selectively activating the camera to derive input picture signals, the electronic camera further including a user operable control for generating a saliency signal capable of having plural values and a buffer for receiving the input picture signals and having a capacity for the input picture signals determined in response to the value of the saliency signal.

52. An apparatus according to claim 51, wherein the saliency signal has more than two values.

53. An apparatus according to claim 51, wherein the electronic camera includes the buffer.

54. An apparatus comprising an electronic camera having a picture taking control for selectively activating the electronic camera to store an image to a memory, the electronic camera further including a user operable control for generating a non-playback saliency signal, and picture selection circuitry for selectively passing the image to the memory in response to the saliency signal, the saliency signal being capable of having more than two values.

56. An apparatus of claim 54, wherein the electronic camera includes the circuitry.

IX. EVIDENCE – APPENDIX

None.

X. RELATED PROCEEDINGS – APPENDIX

None.